

Introduced by Senator Cox

January 11, 2006

An act to amend Section 12751.3 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1169, as introduced, Cox. Municipal Utility districts: purchases.

The Municipal Utility District Act generally requires the purchase of supplies and materials by a municipal utility district to be let by contract to the lowest responsible bidder when the expenditure is in excess of \$25,000, or, in any district with a population of 250,000 or more, in excess of \$50,000, with annual adjustments to those dollar limits.

The act also establishes an alternative acquisition process under which, if the purchase of supplies and materials by a district exceeds \$50,000, and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the district's board. The act requires a district that elects to purchase supplies and materials by contract let in accordance with those policies to submit a specified report to the Legislative Analyst on or before January 1, 2006, and requires the Legislative Analyst to report to the Legislature on or before April 1, 2006. Those alternative acquisition process provisions are repealed on January 1, 2007.

This bill would delete that January 1, 2007, repeal date, thereby making those alternative acquisition process provisions operative indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 12751.3 of the Public Utilities Code is amended to read:

12751.3. (a) The purpose of this section is to provide affected districts with an alternative acquisition process that will result in reduced costs to ratepayers. Notwithstanding Section 12751, when the expenditure for the purchase of supplies and materials exceeds fifty thousand dollars (\$50,000) and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the board pursuant to this section.

(b) The best value at the lowest cost acquisition policies adopted pursuant to subdivision (a) shall consider, but not be limited to, all of the following:

(1) Price and service level proposals that reduce the district's overall operating costs.

(2) Supplies and materials standards that support the district's strategic supplies and materials acquisition and management program direction.

(3) A procedure for protest and resolution.

(4) Any other factors the board determines to be relevant.

(c) For purposes of this section, "best value" means any factor or criterion established by a district to ensure that its business needs and goals are effectively met and that the district obtains the most value for an authorized acquisition. The term "best value at the lowest cost acquisition" means a competitive procurement process whereby the award of a contract for supplies and materials may take into consideration any of the following factors:

(1) The total cost to the district of its use or consumption of supplies and materials.

(2) The operational cost or benefit incurred by the district as a result of *the* contract award.

(3) The value to the district of vendor-added services.

(4) The quality, effectiveness, and innovation of supplies, materials, and services.

(5) The reliability of delivery or installation schedules.

1 (6) The terms and conditions of product warranties and vendor
2 guarantees.

3 (7) The financial stability of the vendor.

4 (8) The vendor's quality assurance program.

5 (9) The vendor's experience with the provision of supplies,
6 material, and services.

7 (10) The consistency of the vendor's proposed supplies,
8 materials, and services with the district's overall supplies and
9 materials procurement program.

10 (11) The economic benefits to the general community,
11 including, but not limited to, job creation or retention.

12 (d) If a district elects to purchase supplies and materials by
13 contract, let in accordance with best value acquisition policies
14 adopted by the board pursuant to this section, the district shall
15 submit a report to the Legislative Analyst on or before January 1,
16 2006. The district shall include in the report a summary of the
17 costs and benefits of best value acquisition compared to
18 traditional low bid procurement practices. The report shall also
19 include statistics showing the number of contracts awarded to
20 small businesses, minority-owned businesses, and new
21 businesses and the number of years each contract awardee had
22 been in business. The report shall also include an analysis of the
23 effects of best value procurement practices on these businesses,
24 the nature of any disputes arising from the use of best value
25 procurement practices, and the status of those disputes. On or
26 before April 1, 2006, the Legislative Analyst shall report to the
27 Legislature on the use of "best value at lowest cost acquisition"
28 procurement practices used by municipal utility districts. The
29 report may include recommendations for modifying the
30 provisions of this section and extending the operation of this
31 section beyond January 1, 2007.

32 (e) The district shall ensure that all businesses have a fair and
33 equitable opportunity to compete for, and participate in, district
34 contracts and shall also ensure that discrimination in the award
35 and performance of contracts does not occur on the basis of race,
36 color, sex, national origin, marital status, sexual preference,
37 creed, ancestry, medical condition, or retaliation for having filed
38 a discrimination complaint in the performance of district
39 contractual obligations.

1 ~~(f) This section shall remain in effect only until January 1,~~
2 ~~2007, and as of that date is repealed, unless a later enacted statute~~
3 ~~that is enacted before January 1, 2007, deletes or extends that~~
4 ~~date.~~